

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ANTHONY GILL,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Respondent.

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Case No. 6:20-cv-634-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner Anthony Gill, proceeding pro se, filed this federal petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the legality of his confinement. The petition was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

On January 26, 2021, Judge Mitchell ordered Petitioner to pay the statutory filing fee or seek leave to proceed *in forma pauperis*, as set out in 28 U.S.C. § 1915(b). Docket No. 3. By separate order, Judge Mitchell also directed Petitioner to file an amended petition setting out the bases of his claims and the facts upon which these claims rest. Docket No. 4. A copy of these orders was sent to Petitioner at his last known address but were returned as undeliverable. Docket No. 5.

On February 17, 2021, Judge Mitchell issued a Report and Recommendation recommending that the Court deny the petition and dismiss this case without prejudice for failure to prosecute and failure to obey a Court order. Docket No. 6. A copy of this Report was mailed to Petitioner at his last known address but was also

returned as undeliverable. Docket No. 7. Petitioner has not advised the Court of an updated mailing address and no objections to the Report have been received.


This Court reviews the findings and conclusions of the Magistrate Judge *de novo* only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Petitioner did not object in the prescribed period. The Court therefore reviews the Magistrate Judge’s findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”).

Having reviewed the Magistrate Judge’s Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 6) as the findings of this Court. Petitioner’s application for the writ of habeas corpus is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. A certificate of appealability is **DENIED** sua sponte, with such denial referring only to an appeal

of this case and having no effect upon Petitioner's right to refile this petition should he choose to do so.

So **ORDERED** and **SIGNED** this **24th** day of **March, 2021**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE